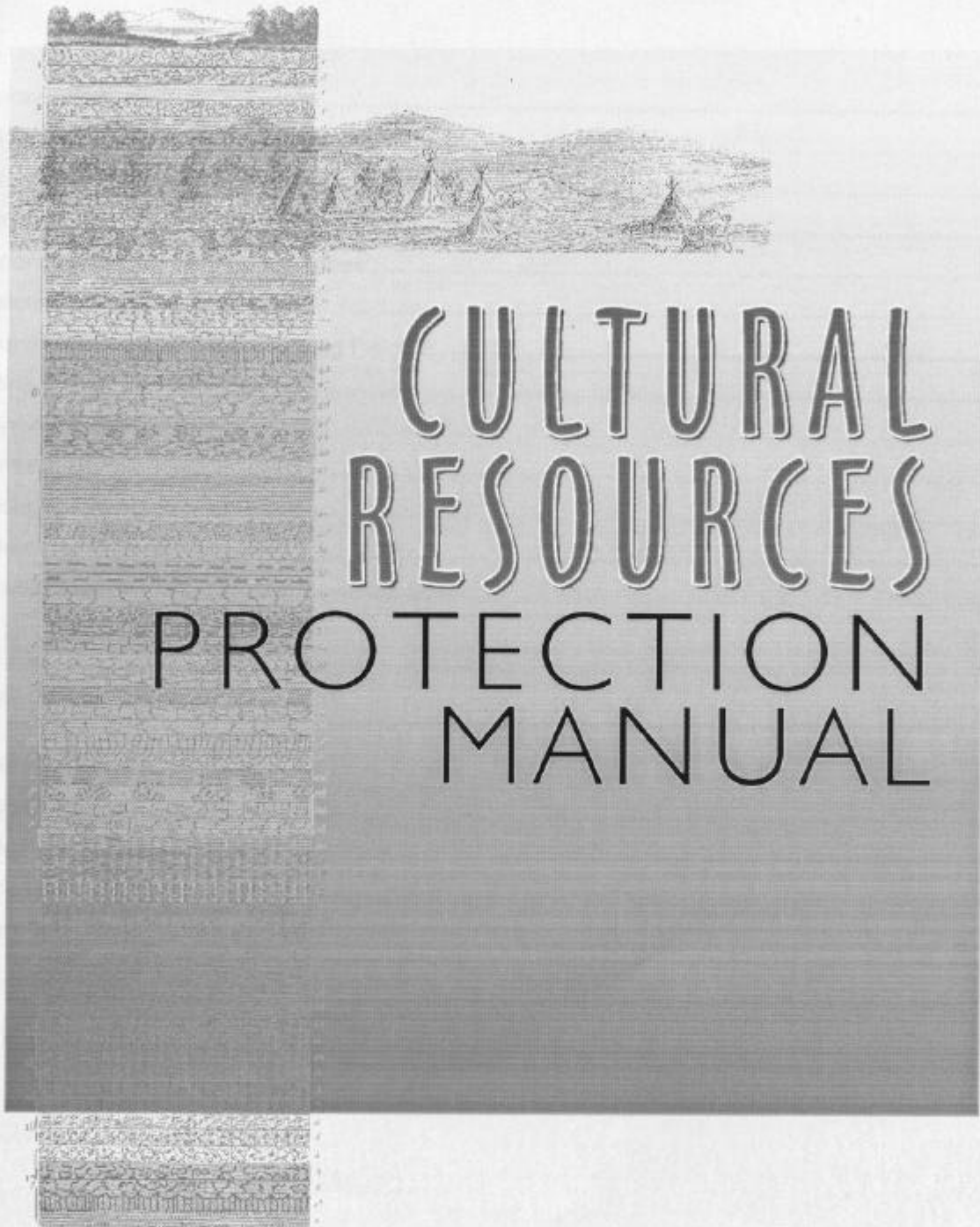


Cultural Resources Protection Manual

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CULTURAL RESOURCES PROTECTION MANUAL

WESTERN AREA POWER ADMINISTRATION

Cultural Resources Protection Manual

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CHAPTER 3, CULTURAL RESOURCES PROTECTION

I. PURPOSE The purpose of this chapter is to provide basic information and guidance on implementing Western's cultural resources program and to establish a uniform process to meet the requirements of the statutory authorities listed in Part II. This chapter will cover legislation, responsibilities, protection, planning, the Section 106 process, Native American consultation, permitting and training.

II. REFERENCES

- A) American Antiquities Act of 1906 (P.L. 59-209; Stat. 225; 16 U.S.C. 432, 433)
- B) Historic Sites Act of 1935 (P.L. 74-292; Stat. 666; 16 U.S.C. 461)
- C) Reservoir Salvage Act of 1960 as amended by Archeological and Historic Preservation Act of 1974 (P.L. 86-523; 74 Stat. 220, 221; 16 U.S.C. 469; P.L. 93-291; 88 Stat. 174; 16 U.S.C. 469)
- D) National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915; 16 U.S.C. 470) as amended (P.L. 91-243, P.L. 93-54, P.L. 94-422, P.L. 94-458, P.L. 96-199, P.L. 96-244, P.L. 96-515) and implementing regulations for portions of the Act at 36 CFR Parts 60, 63, 65, 78, 79 and 800.
- E) National Environmental Policy Act of 1969 (P.L. 91-190; 83 Stat. (852)
- F) Executive Order 11593 (16 U.S.C. 470), "Protection and Enhancement of the Cultural Environment," May 13, 1971.
- G) American Indian Religious Freedom Act of 1978 (P.L. 95-431; 92 Stat. 469; 42 U.S.C. 1996)
- H) Archeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat 721; 16 U.S.C. 470aa _et seq.) as amended (P.L. 100-555; P.L. 100-588) and implementing regulations at 43 CFR 7.
- I) Native American Graves Protection and Repatriation Act of 1990 (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) and implementing regulations at 43 CFR 10.
- J) U.S. Department of Energy, Office of Congressional and intergovernmental Affairs, DOE 1230.2, American Indian Tribal Policy, April 1992.

- K) U.S. Department of Energy, Office of Environmental Guidance Memorandum, "Native American Graves Protection and Repatriation Act," October 1992.
- L) U.S. Department of Energy, Office of Environmental Guidance Memorandum, "Management of Cultural Resources at Department of Energy Facilities," August 1993.
- M) U.S. Department of Energy, Office of Environmental Guidance Memorandum, "State Historic Preservation Officers Information Brief," November 1993.
- N) U.S. Department of Energy, Office of Environmental Guidance Memorandum, "Historic Preservation and the DOE Historian," November 1993.
- O) U.S. Department of Energy, Environmental Guidelines for Development of Cultural Resource Management Plans, April 1994.
- P) Western Area Power Administration, WAPA 5400.1A Environmental Consideration in the Planning, Designing, and Constructing of Power Facilities and Activities, September, 1994.

III. POLICY It is Western's policy to identify, evaluate and protect cultural resources on Western's fee lands, leased lands, and ROWs. Western will work with other agencies to protect cultural resources within Western's ROWs. It is Western's policy to avoid impacts to cultural resources whenever feasible. Western will take into account comments from interested parties on projects that may impact cultural resources. Western shall repatriate Native American human remains, cultural items and items of cultural patrimony whenever possible.

IV. DEFINITIONS

- A) **American Indian Tribe** is any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska native entity, which is recognized as eligible for the special programs and services provided by the United States because of their status as Indians.
- B) **Area of Potential Effect** is the geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist. The APE is determined by the HPO in consultation with the Regional Office and appropriate land managing agencies.
- C) **Cultural resources include**, but are not limited to: 1) archaeological materials and sites dating to the Prehistoric, Historic and Ethnohistoric periods that are currently

located on, or are buried beneath, the ground surface; 2) standing structures that are over 50 years of age or are important because they represent a major historical theme or era; 3) cultural and natural places, certain natural resources, and sacred objects that have importance for Native Americans; 4) American folklife traditions and arts; and some landscapes and vistas.

D) **Effect** is any change, beneficial or adverse, in the quality of the significant historic, architectural, or archaeological characteristics of an historic property. Effects are determined by applying the "Criteria of Effect and Adverse Effect" according to 36 CFR 800.9. Determinations of effect are made by the HPO in consultation with the Regional office and appropriate land-managing.

E) **Emergency** is when Western must respond immediately 1) to restore the delivery of power which was stopped by some unforeseen event; 2) to prevent the imminent loss of power caused by some unforeseen event; or 3) to prevent Western's facilities from endangering human life. An emergency is when the preservation of human life and property is a priority concern. In the case of an emergency, Western should respond to the emergency. When the emergency is over, western should consult with the SHPO on the undertaking (emergency).

F) **Historic Preservation officer** is a designated representative of Western responsible for coordinating all cultural resources activities, as provided for in Section 110 (c) of the NHPA, as amended. The qualifications for the HPO are established by Section 110 and can be found in the Secretary of Interiors Standards and Guidelines (48 FR 44738). The HPO supports all western personnel regarding cultural resource matters, reviews all environmental documents for compliance with cultural resource regulations, participates in negotiating memorandums or programmatic agreements and coordinates consultation with SHPOs and the ACHP.

G) **Historic Property** is any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (Register).

H) **Human Remains, Cultural Items and Items of Cultural Patrimony** -- Human remains means the physical remains of a human body, including but not limited to bones, teeth, hair, ashes, or mummified or otherwise preserved soft tissues of a person of Native American Ancestry. Cultural items means, collectively, associated funerary objects, unassociated funerary objects, sacred objects and objects of cultural patrimony. Objects of cultural patrimony means cultural items having ongoing historical, traditional or cultural importance central to the Indian Tribe itself, rather than property owned by an individual Tribal member. (These definitions are from NAGPRA).

I) **Identification** is a process of using specific methods or techniques to locate and describe cultural resources.

J) **Impacts** is a set of effects that changes the qualities of a cultural resource characteristic.

K) **Inadvertent Discovery** is when cultural resources or human remains are uncovered by maintenance or construction activities. This type of find is unanticipated. In the case of an inadvertent discovery, all activities in the area of the find will stop until it can be evaluated by an archaeologist and/or the HPO. Procedures to be followed after the stoppage of work will depend on the discovery.

L) **Interested party** is any individual or organization concerned with the impacts of an undertaking on cultural resources or effects on historic properties.

M) **Mitigation** refers to actions which lessen or eliminate the adverse effects of undertakings on historic properties. These actions may include: 1) avoiding; 2) repairing, rehabilitating, or restoring the affected property; 3) preservation and maintenance operations during the life of the undertaking; and 4) compensating for the effect by moving or documenting the historic property or conducting data recovery.

N) **Repatriation** is returning human remains, cultural items or items of cultural patrimony to the tribes. This could include reinterment on or near the place the remains or items were originally located.

O) **Significance** is used to describe the level of importance a cultural resource has obtained based upon its evaluation according to the criteria set out at 36 CFR 60.4. Significance is determined by the HPO in consultation with the Regional Office and appropriate land-managing agency.

P) **State Historic Preservation Officer (SHPO)** is the official who is responsible for administering the NHPA within the State and is appointed pursuant to Section 101(b)(1) of the NHPA, as amended, or a designated representative authorized to act for the SHPO.

Q) **Traditional cultural property (TCP)** is a place or feature that is associated with cultural practices or beliefs of a living community that are rooted in the community's history and are important in maintaining the continuing cultural identity of the community. TCPs may be determined eligible for the Register, and as a result, are considered under the Section 106 process.

R) **Undertaking** means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, *including* 1) those carried out by or on behalf of the agency; 2) those carried out with Federal financial assistance; 3) those requiring a Federal permit, license, or approval; and 4) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

V. RESPONSIBILITIES FOR CULTURAL RESOURCES

A) Administrator:

- 1) Oversees Western's compliance with cultural resource laws and regulations.
- 2) Establishes cultural resource policy and guidance through written directives.

B) Chief Program Officer:

- 1) Advises the Administrator and other western staff on pertinent cultural resource laws and regulations applying to the planning, designing, maintaining, and constructing of power facilities and activities.
- 2) Reviews directives for implementation of cultural resource regulations prior to approval by the Administrator.

C) Regional Managers (or designee):

- 1) Implement memorandums of agreement or programmatic agreements.
- 2) Signs memorandums of agreement or programmatic agreements which cover their Region. Agreement documents that cross regions will be jointly signed by the appropriate Regional managers.
- 3) Implements the cultural resources program at the field level.
- 4) Has signature authority on all cultural resource correspondence related to Section 106 compliance.
- 5) Issues cultural resource permits or letters of authorization.
- 6) Consults with Native American Tribes on cultural resource survey and excavation or testing projects.
- 7) Implements NAGPRA agreements.

8) Signs NAGPRA agreements that cover their Region. Agreement documents that cross regions will be jointly signed by the appropriate Regional Managers.

D) Director, Environment:

1) Provides staff support to regional offices in cultural resource management issues.

2) Advises the CPO, Regional Managers and Regional Environmental Managers on cultural resource management issues.

E) Historic Preservation Officer (HPO):

1) Provides training and technical guidance on cultural resource issues.

2) Reviews all environmental documents for compliance with appropriate cultural resource regulations.

3) Participates with the Regional Manager(s) in negotiations of memoranda of agreement and programmatic agreements.

4) Assists with the coordination of the consultation with Tribes, any interested parties, the State Historic Preservation Officer(s) (SHPO) and the Advisory Council on Historic Preservation (Council) regarding inventory levels, APE, and effect and eligibility determinations according to NHPA.

5) Assists regional offices in consulting with Native American Tribes on cultural resource excavation, testing or survey projects.

6) Assists region offices in negotiating NAGPRA agreements with Native American Tribes.

7) Reviews all applications for cultural resource investigations on Western-owned lands. Coordinates with Regional Manager.

F) Point of Contact (POC):

1) Deals with American Indian issues relating to Western's mission.

2) Provides information to the DOE POC on all communications with American Indians.

VI. PROTECTION OF CULTURAL RESOURCES

A) Section 110 of NHPA provides guidance on the preservation of historic properties which are owned or controlled by an agency. This section requires each agency to establish a preservation program for the identification, evaluation, and nomination to the Register, and protection of historic properties. Each regional office should inventory all fee-owned lands for historic properties. The identification of cultural resources is necessary to determine management and protection of the resource. This will be addressed in detail in western's Cultural Resource Management Plan (**CRMP**).

1) The Western **CRMP** will be a comprehensive program to manage cultural resources on Western-owned lands and other lands impacted by Western programs. The **CRMP** will include the following:

- a) Discussion of short- and long-term goals.
- b) Overview of past cultural resource management accomplishments.
- c) Goals, methods and procedures for the ongoing management of program-impacted cultural resources.
- d) Administrative requirements for managing program cultural resource management activities for specific executive, statutory and regulatory authorities.

2) The Western **CRMP** will include a study of the technological history of its facilities and include strategies for the preservation of representative properties, archives and objects.

3) The **CRMP** will ensure compliance with cultural resource laws and regulations, ensure consistency in the cultural resource planning process, enhance program recognition, establish government-to-government relationships and consultations with Native Americans, and improve consultations with other agencies groups and interested persons.

B) As part of its sections 110 and 106 responsibilities, western shall evaluate all substations, transmission lines and other facilities which will reach 50 years of age within 5 years for eligibility for inclusion in the Register. Should any facility or structure be determined eligible, Western shall develop a management plan for that facility/structure or develop a mitigation plan. This shall be addressed in the CRMP. Lists of facilities will be evaluated for eligibility on an annual basis.

C) All cultural resources shall be protected to the extent possible to maintain their integrity. This includes cultural resources on lands not owned or controlled by Western. According to the Archaeological Resources Protection Act (ARPA), on all Federally owned lands, there are civil and criminal penalties for excavating, removing, damaging, or otherwise altering or defacing any cultural resource. Section 110 prohibits anyone from damaging, destroying, etc, resources in order to avoid provisions of Section 106 of NHPA. In addition, many states have laws that protect cultural resources on state-owned and/or private lands. All Western and Western-contracted field employees should be informed of these provisions, as well as Western's policy to avoid impacting any cultural resources. Western needs to ensure that all Western activities do not intentionally or unintentionally disturb any cultural resources.

D) Cultural resources information is protected from public disclosure by NHPA and ARPA. Requests for locational information on cultural resources under the Freedom of Information Act are specifically exempted under these acts. This is to prevent potential harm to the resources from looting and vandalism. All files and records with locational information should only be accessible to employees who need to use the information in order to do their work; requests for access to this information should be limited to qualified individuals (archaeologists, environmental staff), unless western management determines that the information is needed by other employees or contractors to perform their official duties. Other Western employees and some contractors, including environmental, maintenance and engineering staffs, may have access to other cultural resource information as needed.

VII. CULTURAL RESOURCES AND THE PLANNING PROCESS

A) Western must determine as early in planning as feasible whether proposed actions or decisions would affect historic properties and initiate consultation with the SHPO and the Council. As soon as a construction project or maintenance activity is proposed and funding is available, the regional environmental staff should be notified to determine the need for a cultural resources survey or evaluation.

B) Compliance with Section 106 of the NHPA is a parallel but separate process from NEPA analysis. For all actions to be reviewed under NEPA, whether the action is categorically excluded (CX), or subject to analysis of impacts in an Environmental Assessment (EA) or Environmental Impact Statement (EIS), Western must document the effects the project will have on historic properties.

1) In determining whether an action can qualify as a CX under NEPA, consider whether the action will adversely affect an historic property (see 10 CFR 1021, Appendix B to Subpart D Integral Elements). If there is no effect, if the effect can be mitigated (no adverse effect), or if an adverse effect can be limited solely to a historic property and the adverse effect can be properly resolved through the Section 106 process, then a CX is appropriate.

2) For EAs and EISs, the requirement for identification of historic properties discussed below should be coordinated with the information gathering requirements of NEPA. Early consultation with the State Historic Preservation Officers, affected landmanaging agencies, or other interested parties, supports the NEPA requirements for consultation. If the project is complex, involves more than one state or multiple land jurisdictions, or if non-federal project proponents will have delegated decision-making responsibilities, a programmatic agreement for cultural resources may be appropriate; development of this document should also start early in NEPA planning.

3) Inventories for cultural resources should be conducted on all alternatives, if this is economically feasible. If done, determinations of effect can be done for any resources found to be eligible and likely to be impacted by the project regardless of which alternative is chosen. The consultation process can be completed prior to any decision on the project (FONSI or ROD), and project planning can take into account any mitigative actions necessary once the construction project or maintenance activity begins.

4) If it is determined to be economically infeasible to conduct inventories of all alternatives, the project planning should take into account the need to complete the Section 106 process (the inventory of the chosen alternative, determinations of eligibility and effect, and planning of mitigative action) after a decision is made about the project (FONSI or ROD).

D) Compliance with NAGPRA is also a separate authority and is not satisfied by complying with NEPA or NHPA. NAGPRA coordination can be done during the NEPA process.

1) Identification of sacred sites should be done as early as possible in the planning effort.

2) Coordination with affected tribes should be begin as soon as a project is identified, but not later than the scoping effort.

3) NAGPRA memorandums of understanding are not part of the NEPA documentation, but assist in supporting NEPA consultation.

E) Prior to Resource Conservation and Recovery Act (RCRA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cleanup actions, Western must evaluate potential impacts to historic properties. These are parallel but separate processes.

VIII. SECTION 106 OF THE NHPA

A) Section 106 is a consultation procedure authorized under NHPA, Consultation is among Western and the SHPO, the Council, and any interested parties. It applies to all western undertakings.

B) The consultation procedure is intended to document that Western considered whether a western undertaking will have an impact on an historic property.

C) Even if Western or another agency consults on impacts to an historic property, Western may need to consult again if the new action is a separate undertaking. In other words, completing consultation on an historic property does not preclude future consultations for the same historic property.

D) When Western has programs or activities which involve other Federal agencies, Western may fulfill its Section 106 responsibilities through a single lead agency.

E) Section 106 requires Western to complete the Section 106 process prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license or permit. The expenditure of funds on nondestructive planning activities preparatory to an undertaking is allowed. A schedule for completion of the Section 106 process should be consistent with the planning and approval schedule for the undertaking.

F) Both the Regional Manager and the HPO can sign correspondence to the SHPO and the Council. Both parties shall be copied on all correspondence.

G) NAGPRA relates to Section 106 during archaeological data recovery or similar mitigative actions for Western projects when they are located on Federal or tribal lands. This is due to the fact that subsurface excavations are more likely to impact human remains, items of cultural interest or items of cultural patrimony to tribes. These actions developed pursuant to Section 106 must also meet NAGPRA requirements. However, Western is the lead only when the project is located on Western fee-owned lands.

NAGPRA also relates to Section 106 in a discovery situation where human remains, cultural items or items of cultural patrimony are located on Federal or tribal lands during a land-disturbing activity. NAGPRA requires that the activity cease until the agency can consult with the tribe(s) and Section 106 requires consultation with the SHPO and Council.

H) Other Federal or state agencies or tribes may have procedures established for various aspects of Section 106. In some cases, it may be necessary to follow their procedures when Western projects are located on their lands.

I) Section 106 consultation has three parts: 1) Identification and evaluation of Historic Properties, 2) Determining Effect and 3) Resolving Adverse Effect.

1) Identification and Evaluation of Historic Properties begins with western determining the undertaking's area of potential effect (APE). Consider both direct or indirect impacts when determining the APE. The APE should be determined by the HPO in consultation with the Regional Office. On other Federal, state, or tribal lands, western shall also consult with the land manager on defining APE.

a) The APE identifies the area which will require some level of inventory for cultural resources, or potential historic properties. The identification process requires Western to locate all historic properties. This can be done by (i) only a records and literature search if and when it indicates the APE has been previously surveyed to current standards, or the APE is so disturbed there could be no intact historic properties; or (ii) a records and literature search and field pedestrian survey by an archaeologist. The second method can be done either in-house or by contract. Appendix D is an example of a standard scope of work for a field inventory. Whenever Western determines no field inventory is necessary, Western must first consult with the SHPO and document the decision in the permanent file.

b) Once the inventory/identification process is completed, all cultural resources which could be affected by the undertaking must be evaluated for eligibility for inclusion in the Register. Western makes this determination unless the historic property has already been formally determined eligible. The criteria for listing in the Register are covered in 36 CFR 60.4. The determination for eligibility is done by the HPO in consultation with the Regional Office and the federal land manager or tribe (when the historic property is located on another Federal Agency, state agency or tribal lands), and the SHPO. Western's recommendation

for eligibility/ineligibility shall be documented and submitted to the SHPO for concurrence.

c) The decision to recommend a cultural resource as eligible does not mean that the property must be avoided and protected at all costs. It means that it must be taken into account in planning the undertaking. The effects of an undertaking on most historic properties can be mitigated through some form of data recovery. (see Part VIII (H) (2) (d)).

2) If an historic property is located within the APE, Western must make a determination of effect. The determination of effect will be made by the HPO in consultation with the Regional office and the Federal/state/tribal land manager. There is an effect if the undertaking alters the characteristics of a property that may qualify it for the Register or alters features of a property's location, setting, or use that contribute to its significance (36 CFR 800.9(a)).

a) Western makes the determination of effect in consultation with the SHPO and the land-managing agency or tribe when an historic property is located on either Federal, state or tribal lands. This means that Western takes the lead and submits the justification for the determination to the SHPO for concurrence (36 CFR 800.5(a)). The views of interested persons should be considered in making the determination of effect. This would particularly apply to Native American Tribes for prehistoric sites and/or traditional cultural properties, even when these cultural resources occur on non-tribal lands. It is important to note that the following apply to the determination of effect:

- 1) A beneficial effect is also an effect.
- 2) An effect can include visual or noise pollution.
- 3) If the undertaking may have an effect, it is also considered to have an effect.

b) If western makes a no effect determination and the SHPO concurs or does not respond within 15 days, the undertaking may proceed. Western does not need to notify the Council on "no effect" determinations.

- c) If western determines there is an effect, in consultation with the SHPO, Western applies the criteria of adverse effect (36 CFR 800.9(b)) and makes a no adverse effect or an adverse effect determination. Criteria for adverse effect include destruction or alteration, isolation from or alteration of environment, intrusive elements, neglect and transfer, lease or sale of property.
- d) It is Western's policy to have a no adverse effect determination, if at all possible. A no adverse effect determination is made when a treatment is recommended which would mitigate the adverse effect of the undertaking. Treatment could include protection, excavation, research or rehabilitation. A treatment plan/data recovery plan is developed by Western for submission to the SHPO and the Council. Both the SHPO and the Council review treatment plans and have 30 days to provide comments to western.
- e) If human remains are impacted by the undertaking, there will always be an adverse effect determination. If the remains are determined to be Native American and are located on Federal or Tribal lands, NAGPRA consultations must be initiated (see Part IX (D)). If the remains are not Native American, there shall be an attempt to locate nearest kin to determine disposition of remains. State laws governing human remains shall be followed when the remains are found on private or state lands.
- f) For all no adverse effect or adverse effect determinations, the documentation shall be submitted to the Council. The Council has 30 days to comment on a no adverse effect or an adverse effect determination.
- g) For all comments received during the consultation process, Western must take them into consideration but is not obligated by law to adhere to any recommendations.
- h) Agreement documents can be drafted with the SHPO and Council regarding no adverse effect and adverse effect determinations (36 CFR 800.5(e)). An agreement document, a Memorandum of Agreement or a Programmatic Agreement, is a legal document which is proof that Western has complied with the requirements of Section 106. It specifies the mitigation or alternatives agreed to by all consulting parties. Agreement documents are generally signed by Western, the SHPO(s) and the Council. Regional Managers can sign agreement documents when the Region office

is responsible for implementation. These documents are negotiated by the Regional Office and the HPO.

- i) Interested parties may be invited to consult throughout the process. They can also be asked to sign agreement documents as concurring parties. Examples of interested parties are Native American tribes, historical societies or other similar organizations.
- j) Memorandums of Agreement are used when there will be an adverse effect to an historic property. These identify the effects and describe the measures to be adopted to reduce or mitigate the adverse effects. They are signed by the Regional Manager, appropriate SHPO and interested groups such as tribes. The Council may or may not be a signatory, but must be consulted to determine whether they want to be involved.
- k) Programmatic Agreements are documents that can streamline the Section 106 process by replacing the regulations. They are designed for routine, repetitive actions which would otherwise require multiple consultations. Programmatic Agreements are also used for large complex projects which would otherwise require multiple consultations, e.g. construction projects. They are signed by the appropriate Regional Managers, appropriate SHPOs, the Council and interested groups such as tribes.

IX. NATIVE AMERICAN CONSULTATION

The purpose of consultation is to exchange information and ideas. It should not be just sending a letter. It should involve some verbal communications, either by telephone or face-to-face. Targeting the right party for the consultation is also important. For sacred sites or traditional cultural property issues, many tribes have designated staff for consultation purposes. In other cases, it may be more appropriate to contact the elected tribal leaders. The HPO, SHPOs and land-managing agencies can provide advice on contact points for each tribe. Western has a responsibility to operate within a government-to-government relationship with federally recognized tribal governments. For consultations at this level, Western should ensure that Westerns personnel for contacts are at the highest level possible to match with the tribes elected official.

A) Following the amendments to the National Historic Preservation Act of 1992, Native Americans or Indian Tribes are interested parties when it comes to any Western activity or undertaking.

B) Westerns Native American Point of Contact (POC) shall be notified for all formal and informal consultations or communications with Native American Tribes. The POC is responsible for reporting this information to the Department of Energy.

C) Western shall consult with tribes on planned projects as part of NEPA, AIRFA and NHPA, excavations of sites as part of NHPA and ARPA, and human remains, cultural items and items of cultural patrimony (NAGPRA and AIRFA).

D) NAGPRA requires consultation with Native American Tribes on two issues:

1) repatriation of human remains and other cultural items presently held by Federal agencies or Federally assisted museums or institutions; and 2) the inadvertent discovery and/or the intentional excavation of Native American human remains, cultural items and items of cultural patrimony on Federal or Tribal lands.

1) As the repatriation issue applies to Western, Western must consult with tribes regarding any human remains, cultural items or items of cultural patrimony removed during archaeological investigations on western fee-owned lands. Should western determine these belong to a tribe, procedures shall be negotiated for repatriation.

2) For the inadvertent discovery and/or intentional excavation on Western fee-owned lands, western shall consult with tribes whom western believes could have an interest in any archaeological or historic site which requires mitigation. If Western has an inadvertent discovery, Western shall stop all work in the area of the discovery and consult with any interested tribe.

E) NHPA Section 106 consultation does not substitute for compliance with NAGPRA. However, compliance with both acts can be done at the same time through comprehensive agreement documents. However, there has not been tribal interest in doing this, since the SHPO and Council have no NAGPRA responsibilities.

F) Although the American Indian Religious Freedom Act (AIRFA) has no implementing regulations, the intent of the law is to ensure that no sacred areas are impacted without Federal agencies considering those impacts. When Western consults with tribes on planned projects, the intent of AIRFA is fulfilled.

G) DOE Order 1230.2, American Indian Tribal Government Policy, requires improving consultations, interactions and outreach with tribal governments. This order establishes Western's POC. Western shall consult with tribes about potential impacts of proposed Western actions on religious or sacred sites and avoid unnecessary interference with traditional religious practices.

H) For Westerns CRMP, Western will consult with tribes throughout the western service area.

I) Western should consider negotiating agreements with tribes for NAGPRA concerns. These documents would set out the process Western would follow should human remains, cultural items or items of cultural patrimony be uncovered through an inadvertent discovery or recovered as part of an archaeological investigation on westerns fee-owned lands.

J) Projects which take place on private or state lands are covered by state law regarding the disposition of human remains, cultural items and items of cultural patrimony. It is Westerns policy to attempt repatriation wherever possible.

K) Executive Order 13007 provides for the accommodation of Indian sacred sites by Federal agencies that manage Federal land. Federal land is defined as lands owned in fee, including leasehold interests held by the United States. The purpose is to protect access to sacred sites on federal land for Tribal members by reducing federal procedures that may restrict access. This applies to western lands, and Western needs to respect the requirements of the Executive Order that apply to the Federal landowners we cross.

X. PERMITS

A) ARPA establishes the authority for Federal agencies to authorize professional scientific excavation and removal of archaeological resources from Federal lands. Without approval, such removal would be prohibited. Examples of permit applications and letters of authorization are included in Appendices A and B.

1) Permits may be issued by Western to appropriately qualified non-Federal applicants for Western fee-owned lands, provided the proposed work is undertaken for the purpose of furthering archaeological knowledge in the public interest, and the activity would not conflict with existing Western management uses.

2) Permit applications should include a list of all field individuals, qualifications, purpose for study and limited scope of work, all of which would be approved by Westerns HPO. The project director, or person accountable under the permit, shall a) either have formal education resulting in a graduate or

professional degree in the appropriate discipline or b) have equivalent training and experience, including at least 24 months of pertinent, professionally supervised experience.

3) The permittee must have a curation agreement with a curatorial facility which meets the requirements under 36 CFR 79. Once the field work is completed, the permittee will be required to curate all artifacts, notes, photographs and reports, unless there is a conflict under NAGPRA, the land owner or with another permit issued by another Federal Agency.

4) Under ARPA, all artifacts and archaeological materials recovered during cultural resource investigations belong to the land owner. In the case of Federal ownership, the artifacts will be curated, unless they meet criteria under NAGPRA.

5) The permit request shall be submitted to the Regional Manager or the Historic Preservation officer (HPO). The permit shall be approved by the Regional Manager, but should be coordinated with the HPO. The permit should be approved or denied within 30 days of receipt of application. All related Western correspondence will be copied to the HPO.

6) Along with the permit approval, a list of stipulations will be provided to the permittee. A proposed list of standard stipulations is in Appendix C.

7) Permits are not necessary for Western employees or other Federal Agencies or to Federal Agency archaeologists or contractors acting for Western. Individuals from other Federal Agencies, who are authorized by their agency to conduct cultural resource investigations, can be issued a letter of authorization from the Regional Manager or HPO. Appropriate stipulations shall be included with the letter.

B) Since there is no statutory authority to issue permits for cultural resource surveys on Western-owned lands, letters of authorization will be issued by Western for cultural resources surveys of Western-owned lands.

1) A letter of authorization may be issued to appropriately qualified non-Federal applicants or Federal applicants who conduct archaeological surveys as part of their official duties, provided the proposed work would not conflict with existing Western uses.

2) Cultural Resource survey applications should include a list of all field individuals, qualifications, purpose for study and limited scope of work, all of

which would be approved by Western. The project director, or person accountable under the authorization, shall a) either have formal education resulting in a graduate or professional degree in the appropriate discipline or b) have equivalent training and experience, including at least 24 months of pertinent, professionally supervised experience.

3) The applicant must have a curation agreement with a curatorial facility which meets the requirements under 36 CFR 79. Once the field work is completed, the permittee will be required to curate all notes, photographs and reports, unless there is a conflict under NAGPRA or with another permit or authorization issued by another Federal Agency.

4) The authorization request shall be submitted to the Regional Manager or the HPO. The permit shall be approved by the Regional manager, but should be coordinated with the HPO. The permit should be approved or denied within 30 days or receipt of application. All related Western correspondence will be copied to the HPO.

5) Along with the authorization letter, a list of stipulations will be provided to the permittee. A proposed list of standard stipulations is in Appendix C.

6) Western employees, whose official duties include cultural resource management, will not need a letter of authorization. Contractors representing Western will also not require a letter of authorization. No curation agreement will be necessary for other Federal agency applications.

C) Consultation with Native American Tribes is necessary prior to issuance of a permit or letter of authorization. Consultation is also necessary for in-house cultural resource work or work done by Western contractors. This allows any interested tribe to comment on the action in case it may impact any religious or cultural sites that the tribe believes have religious or cultural importance.

1) The Regional Manager shall identify all tribes that could have an interest in the permit or letter of authorization, especially Tribes that have an ancestral interest in the project area. An example of a consultation letter can be found in Appendix E.

2) The Regional Manager shall contact the interested tribes by certified letter with a follow-up telephone call. The Regional manager will consider the tribes' concerns when issuing the permit or letter of authorization or conducting the work in-house or by Western contractors.

XI. TRAINING

A) Any field or headquarters staff involved in decision-making or management related to cultural resource should consider taking training in cultural resources management. Training can be specific for managers or for staff implementing Section 106 compliance.

- 1) Formal cultural resources training for Section 106 consultation is available through the Council. Course work is designed for staff doing Section 106 consultation as well as managers who want a basic understanding of Section 106.
- 2) A formal training course on the Native American Graves Protection and Repatriation Act is available through the University of Nevada, Reno. This course is targeted for anyone who is responsible for compliance with the law.
- 3) Formal training in archaeological techniques, theory or knowledge is available through the University of Nevada, Reno. These classes are targeted primarily for archaeologists. Course work in basic knowledge on archaeology is available through local universities, colleges, community colleges or SHPO offices.
- 4) Western's environmental training course on the National Environmental Policy Act (NEPA) addresses cultural resources in relationship to NEPA and Section 106 consultation. This is a general informational course targeted for any Western employee.
- 5) For non-professional archaeologists, classes are also available through local amateur societies and SHPO offices.

XII. CONTACTS FOR CULTURAL RESOURCES

- A) Historic Preservation officer is responsible for coordinating all NHPA activities for Western. This position is located in the office of Environment, Chief Program Office.
- B) Regional Office Environmental Staff are located in each Regional office and have expertise in cultural resource compliance.
- C) Point of Contact for Western is located at the Chief Program Office all formal and informal communications with Indian Tribes shall be reported to this person.
- D) State Historic Preservation Officer (SHPO) is responsible for administering the NHPA in a State. This office has a staff with expertise in archaeology, history, architecture and methods for studying any of these topics. This office provides guidance

for acceptable mitigation methods and research goals. Many SHPOs have archaeological site and survey files which are available for literature searches. This office may also have an extensive library of cultural resources-related documents. They also provide copies of guidance documents for interested parties. They also maintain lists of qualified archaeological contractors for their state.

E) Advisory Council on Historic Preservation (Council) is an independent agency mandated to advise the President, Congress, and Federal agencies and review their activities related to historic properties. They are a good source for information related to NHPA, especially eligibility and effect.

F) Museums and Repositories maintain archaeological collections, extensive research libraries and occasionally, site survey information. In some states, specific museums or repositories are designated as the state repository for site survey information, site information or collections. Several Federal agencies, e.g. Bureau of Land Management, National Park Service, Corps of Engineers, have their own museums or repositories for collections and site and survey information from their lands.

G) Colleges and Universities maintain extensive research libraries, and occasionally, site survey information and archaeological collections. In some states, specific colleges or universities are designated as the state repository for site survey information, site information or collections.

H) Historical Societies occur at the local and state levels. They maintain extensive files, notes, photographs, and libraries on topics of historical interest. Many have small museums where they keep their files.

I) Federal and State Agencies generally maintain their own site and survey information. As discussed above, some may own their own repositories. Many have extensive historic files that are helpful in doing literature searches. For example, BLM has the General Land Office files and maps which are some of the earliest documentation for settlement and transportation in the west.

J) Indian Tribes maintain either formal or informal files on site and survey information as well as TCP information. Many tribes have fulltime archaeological or cultural resource staffs. For the most part, this information is not accessible by other Federal agencies or the public.

K) Amateur Archaeological Societies exist in every state and are comprised of non-archaeologists interested in participating in archaeological studies. They generally have an annual field school and attend formal classes on archaeological field techniques.

This is usually done in conjunction with a college or university, the SHPO staff, Federal agencies, or professional archaeological groups. They may maintain site and survey information for private lands.

L) Professional Archaeological Societies exist at the state, regional, national and international levels. They are comprised of professional archaeologists, historical archaeologists or archaeological students. They do not maintain site or survey information, but provide guidance and support for research within their areas. At the state level, they may have training courses and field schools.

M) Professional Historical societies exist at the state, regional, national and international levels. They are comprised of professional historians or historic archaeologists. They do not maintain site or survey information, but provide guidance and support for research.

XIII. RECORDS MANAGEMENT

A) Records documenting compliance with Section 106 should be kept in permanent files. Those records required to be retained are:

- 1) Original letters to and/or from the Council, SHPOs, Tribes, land managing agencies, or other interested parties that document the consultation process.
- 2) All determinations of eligibility and effect.
- 3) All final reports produced for inventories, testing or mitigative actions.
- 4) All site record information collected for planning purposes or on inventories.
- 5) Any maps produced showing locational information of cultural resources.

B) These records should be retained in permanent files. Currently there is no schedule for archiving these records. Copies of the records will be retained by the HPO to speed assistance to the Regions.

C) Information containing the location of cultural resources is protected by NHPA and ARPA. It may not be released to the public without the consent of the land managing agency who has management responsibility for those resources. It is recommended that these records be kept under lock and key whenever possible, with access only by qualified individuals as outlined above.

APPENDIX A

**WESTERN AREA POWER ADMINISTRATION
CULTURAL RESOURCES PERMIT APPLICATION**

1. Name of Institution:

2. Name of Applicant:

3. Address:

4. Telephone Number:

5. Nature of Cultural Resources Work:

6. Location of Cultural Resources Work (include legal location and topo map)

7. Individual responsible for carrying out field work:

8. Proposed dates for field work to begin and end:

9. Name and address of curatorial facility:

10. Signature of individual in charge:

APPENDIX B

CULTURAL RESOURCES PERMIT AUTHORIZATION LETTER EXAMPLE

Dear Mr. Plains Woodland

Western Area Power Administration (Western) has received your application to conduct cultural resources investigations at the Prospect Valley Substation from August 16-31, 1994. Your application has been approved and you are now authorized to conduct your investigations.

Enclosed is a list of standard stipulations that you must follow. Please be reminded that should you encounter any human remains, all activities must stop in the area of the find until Western can evaluate the find. When your fieldwork is completed, please contact our office at 555-1212. If you have any questions, please call me at 555-1212.

Sincerely,

Regional Manager

enclosure

cc
Historic Preservation Officer

APPENDIX C

STANDARD STIPULATIONS FOR ARCHAEOLOGICAL PERMITS

- 1) Western shall have access to the work area specified in the permit or authorization at any time during or after completion of fieldwork. Western shall have the right to inspect the work area and any recovered materials and records pertaining to that work.
- 2) Permittee shall not conduct any flint knapping or lithic replication experiments at any archaeological site or non-site location which might be mistaken for an archaeological site as a result of such experiments.
- 3) All costs of work authorized under this permit shall be borne by the permittee.
- 4) The conduct of activities not specifically authorized by this permit or outside areas identified in this permit may constitute a violation of the Archaeological Resources Protection Act or other applicable statutes.
- 5) Depending on the scope, duration, and nature of the proposed work, western may require progress reports and/or a preliminary fieldwork report.
- 6) Permittee shall submit a copy of the final report to western no later than 180 days after completion of fieldwork. The report format shall follow SHPO guidelines.
- 7) Permittee shall deposit in an approved curatorial facility all artifacts, samples and collections, and copies of all records, data, photographs and other documents resulting from work named in the permit not later than 90 days after the date after the final report is submitted to Western. Items covered under NAGPRA will not be covered under this stipulation. Not later than 180 days after the final report is submitted to Western, the permittee shall provide Western with a catalog of all materials deposited with the curatorial facility, including the facility's accession and/or catalog numbers.
- 8) Permittee shall submit a copy of all published journal articles and other published or unpublished reports, papers and manuscripts resulting from the permitted work to Western.
- 9) Fieldwork conducted under authority of this permit shall be carried out in such a way as not to impeded other legitimated uses of western's lands, except when special provision has been made by Western.

- 10) Vehicles shall be restricted to existing roads and trails unless otherwise provided by Western.
- 11) Temporary stakes and/or flagging installed by the permittee shall be removed upon completion of fieldwork.
- 12) Disturbance shall be kept to the minimum area consistent with the nature and purpose of the fieldwork.
- 13) Living trees shall not be cut or otherwise damaged unless authorized by Western.
- 14) No burning of debris shall be allowed without specific authorization from Western.
- 15) Western facilities within the permit area such as transmission line poles and substations shall not be disturbed without prior approval of Western.
- 16) Permittee may request review, in writing to the official concerned, of any disputed decision regarding denial of a permit request, inclusion of specific terms and conditions, or modification, suspension, or revocation of a permit, setting out reasons for believing that the decision should be reconsidered.
- 17) If evidence of human skeletal remains is encountered during fieldwork, the permittee shall immediately notify Western.
- 18) Permittee shall take precautions to protect livestock, wildlife, and the public from accidental injury in any excavation unit.
- 19) All subsurface test units and excavation units shall be backfilled as soon as possible after recording the results of their excavation and restored as closely as reasonable to the original contour.

APPENDIX D

STANDARD SCOPE OF WORK FOR CULTURAL RESOURCE INVENTORY

ARCHAEOLOGICAL INVENTORY REQUIREMENTS FOR WESTERN PROJECTS

1) INTRODUCTION

Western is planning to **(include here a description of the project, legal description/location, *width of row's*, specific projected impacts, land status, deadlines for Western).**

Work required under this scope of work includes background research, field survey, curation, and report preparation. The results of the work covered by this scope of work will be used to fulfill Western's requirements under Section 106 of the National Historic Preservation Act (NHPA).

2) BACKGROUND RESEARCH

The initial purpose of the background research will be to determine all or part of the project area(s) has already been surveyed (meet the Secretary's standards) at an adequate level and to identify known or anticipated cultural resources within and near the project area. Western will make the initial contact with the appropriate State Historic Preservation Officer(s) (SHPO) to determine if inventories have already been conducted or sites have been recorded in the project area(s). Western will supply this information to the contractor.

The contractor will review the information from the SHPO as well as check files with appropriate research facilities, curatorial facilities, and Federal and state land-managing agencies. This information will be used to determine field strategies and to describe anticipated density and types of cultural resources that could be expected on the project. The contractor will check county records and General Land Office (GLO) records for historical site information which will also be used to describe anticipated historical resources. Information about historic sites outside of the project area is important in evaluating historic context and the potential effects to the proposed project (visual effects).

Should the contractor determine that all or part of the project area(s) has been surveyed, the contractor will notify Western and Western will determine if and where additional inventory or a re-inventory is necessary. Should the contractor determine that all of the project area(s) has been surveyed and 1) no sites were recorded; 2) no sites eligible for the National Register of Historic Places were recorded; or 3) any National Register eligible sites have been tested, mitigated, or partially mitigated; then the contractor will notify Western and provide a brief letter report of their findings, documenting the need for no additional field survey. The contractor will not conduct any field inventory or field checks without Western's approval. *(double check with SHPO to see if they concurred on eligibility/non-eligibility)*

3) FIELD SURVEY

The purpose of the field inventory will be to 1) identify and record all cultural resources within the project area (including previously recorded sites); 2) evaluate the significance of the cultural resources; 3) assess the potential impact of the project on significant cultural resources; and 4) identify possible measures for avoiding or mitigating impacts to significant cultural resources. If a permit is necessary to conduct the fieldwork, a copy of the permit stipulations and permit will be submitted to Western prior to initiating any fieldwork.

The contractor will conduct an intensive pedestrian survey of the project area(s) as described in Appendix C and as shown on the enclosed maps. ***(This is where the region can include a legal or verbal description and copies of maps of the project area)***. The contractor shall check with the land-managing agencies and SHPO to ensure an acceptable survey interval; however, the survey transect interval shall not exceed 30 meters. The contractor shall record all cultural resources within the project area(s) including isolated finds, prehistoric and historic sites, historic structures, traditional cultural properties and places important in past human events. The appropriate land-managing agency or state forms will be completed for each find. All finds will be plotted on USGS topographic maps and their location described by legal and/or UTM location. All surveyed areas will also be plotted on the same USGS topographic maps which will be a deliverable to Western. A site map shall be prepared for each site and shall show the scale of the map, north arrow, and reference a datum selected on or near the site. The site map shall show the project area and the location of associated proposed Western project activities.

The field inventory and the recordation of cultural resources will be done at the same time. Recordation shall not require an additional trip to the field.

Site maps shall clearly indicate site boundaries, topography, and the location of features, diagnostic artifacts, and clusters of artifacts. At least one 3 x 5 inch, black and white or color photograph should be included with each site form.

No artifacts shall be collected unless required by the land owner/manager under a permit stipulation, but all diagnostic artifacts and features shall be drawn and photographed. The contractor shall notify western immediately of any permit stipulations requiring surface collection or testing for eligibility. All artifact analysis should be conducted in the field, on site, unless land owner-required or permitstipulated collected artifacts are available. This scope of work provides for limited subsurface testing to make recommendations for National Register significance. This may consist of soil probes, shovel test, or the excavation of a limited number of 1 X 1 meter pits as approved in advance by Western, after Western consults with the appropriate land-managing agency and the SHPO. Where vegetation cover is so heavy that visual surveys are inadequate, soil probes or shovel testing are an appropriate survey methodology. Any further site testing shall require Western approval.

4) CURATION

The contractor shall have a curation agreement with an approved curatorial facility. All artifacts, soil samples, original field notes, photographs, original field notes, and the report(s) shall be curated. A copy of the curatorial agreement will be submitted to western prior to initiating fieldwork.

5) SURVEY REPORT

The contractor shall prepare a written survey report. Western will use the report as the basis for Section 106 (NHPA) consultation with the SHPO. Should the state in which the project is located have minimum report requirements, the contractor shall follow those requirements first and add the following on as needed.

The report shall contain, at a minimum, the following sections. The report need not follow this specific format as long as everything is addressed in the report.

1) Title Page

Include type of investigation, county, state, contracting sponsor, permit number, contract number, Principal Investigator, Organization, author(s) and date of report.

2) Abstract (250 words or less)

Identify project, work performed, location, total acres surveyed broken out by land status (private, state, various land-managing agencies), summary of findings (eligible and non-eligible sites; include land status of sites), and summary of recommendations. Clarify all federal and state agency involvement.

3) Project Description

Purpose of report, scope of work and potential impacts to cultural resources, location of project (general and specific), and ownership of land (refer to maps).

4) Summary of the Cultural History of the Area

Include prehistoric, historic, protohistoric and ethnographic information. In states where an RP3 is in place, a simple summary of this may be sufficient.

5) Summary of the Environmental Setting

Description of physiographic province, microenvironment of project area, past and current land use in the project area.

6) Previous Investigations and Known Sites in Area

Where and when archival research was conducted, include date when went through SHPO files, description of any research done either within the project area or nearby which would have application, description of known cultural resources either in or within at least 1/4 mile of the project area. Provide a USGS topographic map(s) showing where nearby or contiguous inventories were conducted including approximate site locations.

7) Field Methodology

Site definition, inventory strategy, crew size, dates of fieldwork, field personnel, mapping procedures, collection techniques, on-site analysis, techniques to determine potential site depth, types and density of cultural resources anticipated, constraints on investigations, laboratory analysis, research objectives (refer to state plan as appropriate), disposition of records/artifacts, and include a copy of a USGS topographic map(s) indicating areas surveyed. Locations of sites recorded during this project will be recorded on a separate USGS topographic maps, provided as a deliverable to Western, but separate from the report.

8) Survey Results

Describe each site (previous and newly recorded) including site number, legal description, site relationship to surrounding landforms and project boundaries, relationship to nearby sites, site size, observed features, materials collected or observed, site type or function with supporting evidence, cultural/temporal affiliation, elevation, soils, vegetation, site condition, who/when it was originally recorded (only for previously

recorded sites) and National Register eligibility recommendation (and criterion under which they might be eligible). Include site maps showing project area and impact areas, scale (use both metric and English for historic sites), north arrow, key, artifact concentrations, structures, features, diagnostic artifacts, site boundary, recent intrusions, and topographic features. If the impact areas are located off the site map, show distance to impact areas. Describe each isolated find including locations. For absence of cultural resources, discuss reasons for absence in terms of the environmental and cultural history of the area.

9) Summary of Survey Results and Recommendations

Summarize site information. Site evaluations and National Register eligibility recommendations shall clearly specify which attributes make the site eligible or not. For sites, include a chart showing the following information: site number, eligible/not eligible, project impacts (yes/no) and land status. If a site is recommended eligible, the contractor shall specify the types of information or avenues of research for which the site shows potential and justify why that is the appropriate information to acquire. This information will be used for developing a mitigation plan. Summarize isolated find information and include a chart with isolated find number, brief description, and land status. For absence of cultural resources, discuss reasons for absence in terms of the environment and cultural history of the area.

10) Appendices

Include site forms, isolated find forms, and/or special analyses reports. Site forms and isolated find forms will not be in the public distribution copies and will be provided as a separate volume.

11) Bibliography

Use American Antiquity style

* For small surveys or where there are no findings, these sections can be appropriately abbreviated. Make that decision when you issue the statement of work, take out the asterisks and this explanation on the final.

6) PROGRESS REPORTS

On a project that requires more than two weeks of field work, a bi-weekly progress report shall be required.

Should the contractor identify cultural resources that the contractor believes are so significant or large in scope that they could have an impact on the project schedule, western will be notified within two working days. Should the contractor identify human remains on the project, Western will be notified within 24 hours.

7) DELIVERABLES

All deliverables will be submitted to the appropriate Regional Office Environmental Manager's representative (*list name here*). That individual will be responsible for distribution within Western and to other agencies or organizations.

The following will be deliverables:

- 1) Preliminary draft survey report within 45 days of completion of fieldwork (2 copies). This will include site forms and isolated find forms.
- 2) Draft final survey report (within 15 days of receipt of Western's comments on the preliminary draft survey report) for review by land-managing agencies. One draft final survey report will be prepared for each land management agency, or jurisdictional unit thereof, within the project area. The draft final survey reports will include only those site and isolated find forms applicable to each land management agency, or jurisdictional unit thereof. The draft final survey reports shall include original photos.
- 3) Two copies of the draft final survey report (same as #2 above) one for Western's submission to each SHPO(s) and one for Western's review, will be submitted along with the copies prepared for the land management agencies. These copies will include full sets of site forms and isolated find forms as well as surveyed areas and site and isolated find information plotted on a set of USGS topographic maps.
- 4) Final survey report (___ copies) within 15 days of comments from Western and other agencies (list here). Include original photos in two copies for western, one copy for each SHPO, and one copy for each land-managing agency.
- 5) Two copies of USGS topographic maps showing areas surveyed by this project, locations of archaeological sites and isolated finds recorded on this project, and recorded sites and previously surveyed areas found during the Class I overview. These shall be submitted with the draft final survey report.
- 6) Copies of original sites forms, isolated find forms, field notes, field maps, analysis forms, and other forms used for the field survey, All originals will be curated.

- 7) One print or slide of all photographs taken during the course of the project. A copy of the photographic record form. This shall be submitted at the end of the project.
- 8) A copy of the curation agreement. This will be provided prior to initiating any fieldwork.
- 9) List of contacts, dates and purposes of contacts. Include Federal state, and local agencies, and tribes, private individuals, and organizations. This will be submitted with the draft final report.

8) WESTERN PROVIDES CONTRACTOR

Western will provide the following to the contractor. Western will also be available to assist the contractor in determining access.

- 1) One copy of USGS topographic maps showing project area.
- 2) Various ROW widths for transmission lines (or other project information).
- 3) Land owners permission to access and survey private land.

APPENDIX E

EXAMPLE OF CONSULTATION LETTER WITH NATIVE AMERICAN TRIBES

Ms. Judy Knight-Frank
Chairperson
Ute Mountain Ute Tribal Council
General Delivery
Towaoc, CO 81344

Dear Ms Knight-Frank:

Western Area Power Administration (Western) is planning to upgrade and maintain existing access roads for the Hayden-Gore Tap 138kV Transmission Line from Hayden Substation to the Gore Tap Substation, Colorado (approximately 60 miles). Please refer to the enclosed map for locational information. This work is necessary to access transmission line structures to perform routine and emergency transmission line maintenance. Maintenance will include replacing or repairing wooden pole structures, cross-arms, insulators and the line itself.

A cultural resources survey will be conducted prior to any work. This survey will record all prehistoric and historic resources within the right-of-way. Western anticipates that field work will begin in May, 1994.

If you have any concerns regarding sacred areas, cultural use areas, or cultural resources within the project area, we would appreciate your comments once the survey is complete, we will provide you a copy of the survey report so that you can provide comments on the findings.

If you have any questions about this project, please feel free to call Michael Skougard at (801) 524-6029 or Mary Barger at (720) 962-7253.

cc

Terry Knight, Spiritual Coordinator
Farm and Ranch Center
Ute Mountain Ute Tribe
P.O. Box 53
Towaoc, CO 81334